IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.Rev.Pet.No.329 of 1998

CRL.A.NO.140 OF 1992 OF THE COURT OF THE SESSIONS JUDGE, MANJERI.

C.C.NO.318 OF 1991 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I, PERINTHALMANNA.

REVISION PETITIONER/APPELLANT/ACCUSED:-

THACHAKKIL SAIDALAVI @ MOLLA, S/O.MUHAMMED,
PULAMANTHOLA, MALAPPURAM DISTRICT.

BY ADV. SRI.K.A.JALEEL
SRI.C.ANIL KUMAR

RESPONDENT/RESPONDENT/COMPLAINANT:-

THE STATE OF KERALA,
(REPRESENTED BY THE SUB INSPECTOR OF POLICE,
PERINTHALMANNA, CRIME NO.376/91 OF
PERINTHALMANNA POLICE STATION),
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J.

Crl.R.P.No.329 of 1998

Dated, this the 6th day of December, 2006

ORDER

V.K. Bali, CJ. (Oral)

Petitioner was tried for the offences under Sections 380 and 457 of Indian Penal Code. After trial, the petitioner has been held guilty and sentenced to undergo rigorous imprisonment for two years under Section 380 and rigorous imprisonment for one year under Section 457. The sentences were ordered to run concurrently, as would be clear from the order dated 9th October, 1992 passed by the Judicial First Class Magistrate-I, Perinthalmanna. The appeal carried against the order aforesaid was dismissed by the learned Sessions Judge, Manjeri vide order dated 22nd October, 1997. It is against these two orders that the present revision has been filed.

2. Without joining issues on the merits of the case, learned counsel for the petitioner contends that the occurrence pertains to the year 1991 and in the manner aforesaid, the petitioner has suffered a protracted trial spanned over a period of more than 15 years. The petitioner is now married and having

children and leading a peaceful life. This is the first and only crime and no other crime has been registered against him. Counsel prays that a lenient view may be taken and the petitioner may not be sent to serve a jail term at this stage.

3. Put briefly, the petitioner was tried on the allegations that he had stolen a gold chain weighing 6 grams of the value of Rs.1,650/- in the year 1991. As mentioned above, this is the only crime the petitioner is said to have committed. Prior or after to the event, the petitioner was not involved in any case.

4. This Court finds considerable merit in the contention of the learned counsel as made above and is of the view that ends of justice would be served if the petitioner, instead of serving the jail term, be asked to pay fine. Accordingly, while maintaining the order of conviction, the order of sentence is set aside. The petitioner is directed to pay a fine of Rs.7,500/- (Rupees seven thousand and five hundred only) within three months from today which, if realised, would be made over to the mother of the child - Jayasree (P.W.2). If, however, the fine is not paid, the petitioner would serve the sentence imposed by the

Courts below.

With the modification as made above to the orders passed by the Courts below, the present revision is disposed of.

V.K.Bali
Chief Justice

vku/-